

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** Assessing Officials

**FROM:** Barry Wood, Assessment Division Director *JBW*

**RE:** Assessment of Personal Property versus Real Property

**DATE:** February 4, 2013

The Department of Local Government Finance ("Department") seeks to clarify how certain types of property are assessed (i.e., either as Real Property or Personal Property), particularly when they are leased or rented by a company to an individual and used for residential purposes. For example, a company leases electric hot water heaters to individuals for residential properties. A water heater used for residential purposes is classified as Real Property (per Schedule D of Appendix C of the 2011 [*sic* 2012] Real Property Guidelines). The Guidelines considers the base price of the plumbing for a residential improvement to include a kitchen sink, a single three fixture bathroom (sink, toilet and tub or tub/shower combination), water heater, and accessories commensurate with the quality grade for one living unit.

Other items may or may not be similar to the aforementioned water heaters. Therefore, assessing officials should review the Real Property Guidelines and the Personal Property Rule to determine whether that item is Real or Personal Property. The assessing official should be fair and equitable in their determination. If the situation is similar, the assessing official should assess comparable property in the same manner throughout their jurisdiction.

There is one other consideration in the determination of whether property is assessed as Real Property or Personal Property. Per Indiana Code 6-1.1-2-4 (c) – see below, an improvement or appurtenance to land that, on the assessment date of a year, is held, possessed, controlled or occupied by a different person than the owner of the land may be listed and assessed separately from the land only if the improvement or appurtenance is held, possessed, controlled or occupied under a memorandum of lease or other contract that is recorded with the county recorder before January 1, 1998. Therefore, Real Property improvements must be assessed to the owner of the land unless it was done before January 1, 1998 under certain conditions. If an assessing official is notified by a taxpayer of property that may be assessable as Personal Property instead of Real Property, a determination must be made regarding a lease or other contract recorded before January 1, 1998.

## IC 6-1.1-2-4

### Liability for tax; assessment of improvement or appurtenance separately from land

Sec. 4. (a) The owner of any real property on the assessment date of a year is liable for the taxes imposed for that year on the property, unless a person holding, possessing, controlling, or

occupying any real property on the assessment date of a year is liable for the taxes imposed for that year on the property under a memorandum of lease or other contract with the owner that is recorded with the county recorder before January 1, 1998. A person holding, possessing, controlling, or occupying any personal property on the assessment date of a year is liable for the taxes imposed for that year on the property unless:

(1) the person establishes that the property is being assessed and taxed in the name of the owner; or

(2) the owner is liable for the taxes under a contract with that person.

When a person other than the owner pays any property taxes, as required by this section, that person may recover the amount paid from the owner, unless the parties have agreed to other terms in a contract.

(b) An owner on the assessment date of a year of real property that has an improvement or appurtenance that is:

(1) assessed as real property; and

(2) owned, held, possessed, controlled, or occupied on the assessment date of a year by a person other than the owner of the land;

is jointly liable for the taxes imposed for the year on the improvement or appurtenance with the person holding, possessing, controlling, or occupying the improvement or appurtenance on the assessment date.

(c) An improvement or appurtenance to land that, on the assessment date of a year, is held, possessed, controlled, or occupied by a different person than the owner of the land may be listed and assessed separately from the land only if the improvement or appurtenance is held, possessed, controlled, or occupied under a memorandum of lease or other contract that is recorded with the county recorder before January 1, 1998.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.63, SEC.1; P.L.51-1997, SEC.1.*

If you have any questions, please contact Barry Wood, Assessment Division Director, at 317.232.3762 or [Bwood@dlgf.in.gov](mailto:Bwood@dlgf.in.gov).